HIGH COURT OF CHHATTISGARH, BILASPUR

W.P.No.5606/1999

CORAM : Hon'ble Shri S.R.NAYAK, Chief Justice &
Hon'ble Shri Dilip Raosaheb Deshmukh, Judge

PETITIONERS

1. State of M.P., through the Secretary, (School Education), Vallabh Bhavan, Bhopal.
2. The Director, Public Instructions, M.P. Bhopal.
3. Joint Director, Public Instructions, Education Dn. Durg.
4. Deputy Director, Public Instructions, Education, Distt. Durg.
5. Block Education Officer, Durg.

Versus

RESPONDENTS

1. Agarahij Ram Sahu, S/O Bhawar Singh Sahu, aged 51 years.
2. Dhirendra Kumar Mishra, S/O Birendra lal Mishra aged 37 years.
3. Ku. Nita Anthony, D/O Shri Anthony John, aged 37 years.
4. Smt. Saraswati Agrawal, W/O Shri Sant Kumar Agrawal, aged 40 years.
5. Smt. Asha Rana, B/O Shri R.S.Rana, aged 43 years.
6. Shrikumar Vishwakarma, S/O Shankarlal Vishwakarma, aged 35 years.
7. Kailash Kumar S/O Shri T.R.Banwasi aged 32 years.

   All are teachers of Middle/Primary Schools, Pulgaon, Tahsil & District Durg (M.P.)
8. Manohar Prasad Sharma, S/O Shri Somnath Sharma, aged 56 years.
9. Bhanwar Singh Thakur, S/O Sukharoo Ram, Thakur, aged 40 years.
10. Rajesh Maroo, S/O Amritlal Maru, aged 33 years.
11. Smt. Sarla Sharma, W/O Shridhar Diwan, aged 35 years.
12. Smt. Lalita Dewangan, W/O Pradip Kumar Diwangan, aged 27 years.
13. Shri Baratu Ram Yadav S/O Bhukauram Yadav aged 39 years.

All Teachers, Primary School Potiya, Tahsil & District Durg (M.P.)

14. K.L.Dewangan, S/0 D.R.Dewangan, aged 55 years.
15. Smt. Rekha Katiyar, W/0 Arvind Kumar Katiyar aged 37 years.
16. Smt. Shashikala, Sahu, W/0 Surendra Dubey., aged 38 years.
17. Shri Jayaram Sahu S/0 Budhram Sahu aged 39 years.
18. Ku. Vidyawati Sahu, D/0 Bharat Bhusan Sahu, aged 37 years.

    All teachers Middle School Potiya, Tahsil & District Durg (M.P.)
19. Smt. Khorbaharin Sahu W/0..... aged 59 years.
20. Smt. Radha Devi Yadu, aged 36 years.
21. Smt. Dhaneshwari Chandrakar. Aged 37 years.
22. Smt. Jharna Maseeh, Aged 36 years.

    Teachers Girls Primary School, Borsi, Tahsil & District Durg (M.P.)
23. Smt. Meri Dubey, W/0 Shri Ghanshyam Dubey, aged 33 years.
24. Shri Dwarika Sahu S/0 Vishnu Ram Sahu aged 38 years.
25. Smt. Rekha Nandurkar W/0 R.K. Nandurkar, aged 41 years.
26. Smt. Pusphalata Jaiswal W/0 K.S.Jaiswal, aged 28 years.

    Teachers Primary School, Borsibhata Tah. & Dist. Durg (M.P.)
27. Shri Goverdhan Singh Harmukh, S/0 Shersingh Harmukh, aged 61 years, Retired H.M. Pulgaon. C/0 Primary School Pulgaon, Tah. & District Durg (M.P.)
28. Smt. Vijaylaxmi Tiwari, W/0 Late Shivdan Tiwari aged 53 years.
29. Smt. Anima Sharma, W/0 Late Rajkumar Sharma aged 32 years.
30. Shri Thakurram Yadav S/0 Itwariram Yadav aged 32 years.
31. Umed Singh Dewangan (Transferred Asstt. Teacher) S/0 Baijnath Dewangan, aged 53 years, P.S.Katulbod.

    All teachers Primary Scholl Katulbod, Tah. & Dist. Durg (M.P.)

32. Kewal Singh Jaiswal, S/O T.S. Jaiswal, aged 31 years, P.S. & M.S. Pulgaon, Tah. & Dist. Durg (M.P.)
33. Thakurram Sahu S/O Khamhanal Sahu, aged 34 years. P.S. Patiya Tah. & Dist. Durg (M.P.)
34. Pradeep Shrivastava, S/O Jeevanlal Shrivastava, aged 37 years, P.S. Patiya, Tah. & Dist. Durg (M.P.)

Shri Vinay Harit, learned Dy. Advocate General for the petitioners/State.
Shri Ajay Shrivastava, Counsel for the respondents.

ORAL ORDER

(Passed on 8.5.2006)

The following oral order of the Court was passed by **S.R.NAYAK, C.J.**

The background facts leading to filing of this writ petition are as follows:

The Block Education Officer, Durg, the 5th petitioner herein issued an order on 17.12.1996, marked as Annexure P/1, directing that the employees working at Potiya, Borsi, Katulbod and Pulgaon are entitled for House Rent Allowance at the rate of 15% of their salary w.e.f. 1.1.1991. That order was abruptly withdrawn by the petitioner No.5 by another order dated 24.12.1996, marked as Annexure P/2. The respondents herein, feeling aggrieved by the above order dated 24.12.1996, instituted Original Application No.108/97 before the Administrative Tribunal, Raipur Bench, Raipur (for short 'the Tribunal'). In the O.A., it was contended that Annexure P/2 dated 24.12.1996 is invalid both on merit and also for violation of the principles of natural justice. Though reasonable opportunity was afforded to the petitioners, no return was filed before the Tribunal. In the circumstance, the Tribunal having appreciated the materials on record and taking note of the fact that the petitioners herein did not adduce any evidence before it to show that the order made by the petitioner No.5 on 17.12.1996 was illegal and also on the ground that the affected employees were not heard in the matter before

cancellation of the order dated 17.12.1996 by subsequent order dated 24.12.1996, the Tribunal allowed the Original Application and quashed Annexure P/2 dated 24.12.1996 and directed the petitioners to comply with the order Annexure P/2 and to pay the concerned employees House Rent Allowance at the rate of 15% of the salary w.e.f. 1.1.1991. Hence, this writ petition.

2. Although in the course of the arguments, learned counsel for the petitioners would contend that the grant of H.R.A. to the employees by the 5th petitioner vide order Annexure P/1 dated 17.12.1996 was illegal, he was not in a position to establish that fact by referring us to any Rule or administrative instructions. We have carefully perused the writ petition. The averments made in the writ petition are as scanty as they could be and the petitioners have utterly failed to lay any foundation on the basis of which we could possibly opine that direction of the 5th petitioner to pay H.R.A. vide his order dated 17.12.1996 is illegal. Even assuming that the order dated 17.12.1996 (Annexure P/1) of the 5th petitioner could not be sustained in law, before cancelling that order the law required that the 5th petitioner should have given an opportunity the affected employees to have their say in the matter. Admittedly, that was not done in the instant case. In that view of the matter, we find no good reason to upset the order made by the Tribunal impugned in this writ petition.

3. The writ petition is, therefore, dismissed. However, this order shall not come in the way the petitioners, if they think that Annexure P/1 is invalid, they can take appropriate steps in accordance with law and in the light of this order.

Sd/-
Chief Justice

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani